

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ZHUMEI LI, Personal Representative
of the Estate of SAM CHENG, Deceased,
ZHUMEI LI in her individual capacity,
and ALLURA CASANOVA,

Case No.
Hon.
Wayne County Circuit Court
Case No. 22-0068686-NI

Plaintiff,

v.

TIME DISPATCH SERVICES AGENT GROUP,
INC., a foreign corporation, CDS TRANSPORT,
INC., a foreign corporation, and KIRK ANTHONY
DENNIS BROWN, Jointly and Severally,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441(b) and 1446, Time Dispatch Services Agent Group, Inc., CDS Transport, Inc. and Kirk Anthony Dennis Brown (jointly referred to as "Defendants"), hereby remove this action from the 3rd Circuit Court (Wayne County), State of Michigan, where it is currently pending, to the United States District Court for the Eastern District of Michigan, Southern Division.

In support of their Notice of Removal, Defendants state:

PROCEDURAL STATUS OF THE CASE

1. On or about June 10, 2022, Zhumei Li, as Personal Representative of the Estate of Sam Cheng, and in her individual capacity, and Allura Casanova ("Plaintiffs") commenced this action by filing a Complaint in the 3rd Circuit Court, Wayne County, Michigan. The lawsuit was assigned case number 22-006868-NI .

2. The 3rd Circuit Court, Wayne County, Michigan, issued its summons on June 10, 2022.

3. In Plaintiffs' Complaint, a copy of which is attached as **Exhibit A**, Plaintiffs allege Sam Cheng died, and Zhumei Li and Allura Casanova sustained serious personal injuries on June 30, 2021, when a tractor-trailer driven by Kirk Anthony Dennis Brown and owned by either Time Dispatch Services Agent Group, Inc. or CDS Transport, Inc. struck the vehicle occupied by the Plaintiffs. (Plaintiffs' Complaint ¶¶ 10 - 13) As a result of the motor vehicle accident, Sam Cheng was fatally injured, and Zhumei Li and Allura Casanova were seriously injured. (Plaintiffs' Complaint ¶¶ 17, 18, 21, 24, and 38)

4. The amount in controversy, exclusive of interest and costs, is in excess of \$75,000.00. According to Plaintiffs' Complaint, Defendants' negligence was the proximate cause of: (1) Sam Cheng, being fatally injured, and causing him extensive conscious pain and suffering prior to his death (Plaintiffs' Complaint ¶ 24); (2) Zhumei Li being seriously injured, suffering a serious impairment of

body function and/or permanent serious disfigurement including a brain bleed, traumatic brain injury and other closed head injuries, a fractured collarbone, fractured ribs, back, neck, plus other injuries to other parts of her body, she suffered traumatic shock and injury to her nervous system, causing severe mental and emotional anguish, which interferes with her enjoyment of life and may require psychiatric treatment, more generally became sick and disabled (Plaintiffs' Complaint ¶¶ 17 - 18); (3) Allura Casanova, being seriously injured, suffering a serious impairment of body function and/or permanent serious disfigurement including a fractured pelvis requiring surgical repair, lacerations to the head requiring stitches, closed head injuries, back, neck, scarring, plus other injuries to other parts of her body, suffered traumatic shock and injury to the nervous system, causing severe mental and emotional anguish, which interferes with her enjoyment of life and may require psychiatric treatment, and more generally became sick and disabled. (Plaintiffs' Complaint ¶¶ 20 - 21) Based on such allegations, it is more likely than not that the combination of such claims, if successful, would result in a verdict greater than \$75,000.00. *Cross v. Wal-Mart Stores East, L.P.* 2013 WL 141137 (January 11, 2013) (Zatkoff, J.).¹

¹ E.D. Mich. LR 81.1 provides that the removing defendant must: (1) allege in the notice removal that the amount in controversy exceeds the required jurisdictional amount, and (2) set forth the facts or other reasons that the removing defendant possesses that support that allegation or state that the removing defendant has no such facts at that time.

PROPRIETY OF REMOVAL

5. Defendants were served with the Summons and Complaint on July 1, 2022.

6. This Notice of Removal is timely because it is filed within 30 days after Defendants' receipt of a paper (in this case Plaintiffs' Complaint) from which Defendants could ascertain that this case is one which is removable based upon the parties' diversity of citizenship and the requisite amount in controversy.

7. This matter is properly removable under 28 U.S.C. § 1441(b).

8. This Court has original jurisdiction of this action pursuant to 28 USC § 1332.

9. Sam Cheng was a citizen and resident of Wayne County, Michigan at the time of his death (Plaintiffs' Complaint, ¶2). Zhumei Li is a citizen and resident of Wayne County, Michigan, and was appointed in Wayne County as the Personal Representative of the Estate of Sam Cheng (Plaintiffs' Complaint, 3). Allura Casanova is a citizen and a resident of Washtenaw County, Michigan (Plaintiffs' Complaint, 5).

10. Time Dispatch Services Agent Group is a foreign corporation. (Plaintiffs' Complaint, ¶7) Time Dispatch Services Agent Group is incorporated in the State of Delaware with its principal place of business located in Heber City, Utah. (Affidavit of Greg Dunn, **Exhibit B**). CDS Transport, Inc. is a foreign

corporation. (Plaintiffs' Complaint, 8) CDS Transport, Inc. is incorporated in the State of Delaware with its principal place of business located in Heber City, Utah. (**Exhibit B**). Kirk Anthony Dennis Brown is a citizen and resident of Naples, Florida. (Affidavit of Kirk Anthony Dennis Brown, **Exhibit C**) Hence, Plaintiffs are citizens of the state of Michigan and Defendants are citizens of foreign states. Therefore, there is diversity of citizenship.

11. "Where there is more than one defendant, the 'rule of unanimity requires that in order for a notice of removal to be proper before the court, all defendants who have been served or otherwise properly joined in the action must either join in the removal; or file a written consent to the removal.' " *Loftis v. United Parcel Serv., Inc.*, 342 F.3d 509, 516 (6th Cir. 2003) (quoting *Brierly v. Alusuisse Flexible Packaging, Inc.*, 184 F.3d 527, 533 n. 3 (6th Cir. 1999), cert. denied, 528 U.S. 1076, 120 S. Ct. 790, 145 L. Ed. 2d 667 (2000)); *see also Hicks v. Emery Worldwide, Inc.*, 254 F. Supp. 2d 968, 975 (S.D. Ohio 2003)." In this case, Time Dispatch Services Agent Group, Inc., CDS Transport, Inc. and Kirk Anthony Dennis Brown all join in the removal.

12. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached hereto as **Exhibit A** copies of all process, pleadings and orders served upon Defendants in this matter.

13. Pursuant to 28 U.S.C. § 1446(a) and (d), Defendants will file a copy of this Notice of Removal with the 3rd Circuit Court, Wayne County, Michigan; will provide prompt notice to all parties; and will file a proof of service of all notices and filings with the Clerk of the United States District Court for the Eastern District of Michigan.

14. This action is removable to this Court pursuant to U.S.C. §§ 1441 and 1446 because it is within this Court's diversity jurisdiction.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

15. If Plaintiffs contest this removal, Defendants request:

- A. A hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter.
- B. The opportunity to present evidence demonstrating the existence of diversity jurisdiction and the propriety of removal; and
- C. Leave to conduct limited discovery related to those issues.

WHEREFORE, Defendants remove the above captioned action from the 3rd Circuit Court, Wayne County, Michigan, to the United States District Court for the Eastern District of Michigan.

FOSTER SWIFT COLLINS & SMITH PC

By: /s/ Dirk H. Beckwith
Dirk H. Beckwith (P35609)
Attorneys for Defendants
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Southfield, MI 48034
248.539.9918

Dated: July 26, 2022

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on **July 26, 2022**, a copy of the foregoing was served upon the following:

Joshua R. Terebelo, Esq.
Michigan Auto Law, P.C.
30101 Northwestern Highway
Farmington Hills, MI 48334

Clerk - Civil Division
Wayne County Circuit Court
Two Woodward Avenue
Detroit, MI 48226

by e-filing same with the Wayne County Circuit Court's MiFILE E-file and serve system which will send notification to all the attorneys of record for this matter.

/s/ Gayle E. Rossi
Legal Assistant
Foster Swift Collins & Smith, PC
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